

**Questions and Answers
Proposed Critical Habitat
California Tiger Salamander Sonoma County Population**

January 2011

Q. What information is the Service requesting for this proposal?

A. The Service is requesting information and comments on the revised proposed rule to designate critical habitat for the Sonoma County Distinct Population Segment (DPS) of the California tiger salamander that was published January 18, 2011. Comments are requested on the revisions to proposed critical habitat and the draft economic analysis of the revised proposed designation. More specific information can be found on the Federal Register Document *FWS–R8–ES–2009–0044*.

Q. Who should submit information?

A. The Service is requesting comments or information from the public, other concerned government agencies, the scientific community, industry, or other interested parties.

Q. What is critical habitat?

A. The Endangered Species Act defines critical habitat as the geographic areas that contain features essential for the conservation of the species and may require special management consideration. Designation of critical habitat does not affect land ownership or establish a refuge, wilderness, reserve, preserve or other conservation area. It does not allow government or public access to private lands.

Critical habitat is protected through provisions of the Endangered Species Act that require Federal agencies to consult with the United States Fish and Wildlife Service (Service) on actions they carry out, fund, or authorize that may adversely affect critical habitat. It does not mean that projects cannot go forward, but means that Federal agencies must consult with the Service to make sure critical habitat is not destroyed or adversely modified. In this way, critical habitat protects areas that are currently unoccupied by the species, but are needed for the recovery of the species. A critical habitat designation generally has no effect on projects or activities that have no federal agency involvement.

Q. Why is the Service revising proposed critical habitat for the Sonoma County Distinct Population Segment of California tiger salamander?

A. We are revising the critical habitat designation to align better with the December 2005 Santa Rosa Plain Conservation Strategy (Conservation Strategy). Primary changes include removing the following areas from within the proposed critical habitat boundary: the urban centers, the

bulk of the 100-year floodplain, and the areas in the original proposal that either do not contain the physical or biological features essential to the species, or are not considered essential for the species.

Q. Why is most of the 100-year floodplain recommended for removal from the critical habitat designation?

A. The Service has determined that most of the 100-year floodplain lacks the physical and biological features and is not essential for the conservation of the California tiger salamander. Despite intensive focus on the salamander within the Santa Rosa Plain, to date no occurrences of the species have been identified within the 100-year floodplain.

Q. Why is the Service not proposing to exclude critical habitat based on the Conservation Strategy?

A. The Conservation Strategy Implementation Plan, which was anticipated to be completed within two years after the date of publication of the December 14, 2005, final critical habitat rule (70 FR 74138), has not been developed or implemented by local agencies. Therefore, without the certainty of local implementation, we do not believe the Conservation Strategy provides a sufficient basis for exclusion of the unit from critical habitat designation. The Service, however, has been implementing the Conservation Strategy through our programmatic biological opinion with the U.S. Army Corps of Engineers (Corps).

Q. Does the Act require an economic analysis as part of designating critical habitat?

A. Yes. The Service must consider the potential economic impact, as well as any other benefits or impacts, of specifying any particular area as critical habitat. We may exclude any area from critical habitat if we determine that the benefits of excluding it outweigh the benefits of specifying the area as critical habitat, unless we determine that the failure to designate the area as critical habitat will result in the extinction of the species.

Q. Where are we in the process of designating critical habitat for the Sonoma County Distinct Population Segment of California tiger salamander?

A. After the close of the public-comment period, the Service will analyze all comments and information, including comments by solicited peer reviewers, and address them in a final rule, which must be completed by July 1, 2011.

Q. How will the Service deal with California tiger salamander issues between the time when critical habitat is proposed and a final determination made?

A. The Service will continue to complete Section 7 consultations for projects following the existing programmatic biological opinion and the most current Interim Guidelines, and, at the request of the Corps, will issue a conference report for projects that affect critical habitat. For

projects without a Federal nexus, the Service will make decisions consistent with the Conservation Strategy if a Section 10 permit is needed.

Q. Will designating critical habitat result in changes to the programmatic biological opinion?

A. Federal agencies must ensure that their activities do not adversely modify critical habitat. Consequently, the Service will need to revise the existing programmatic biological opinion with the Corps to include critical habitat and to ensure that proposed projects will not adversely modify designated critical habitat. We do not anticipate that re-initiation of the biological opinion to address critical habitat is likely to change the overall scope of the programmatic biological opinion, but until the designation has been finalized, we cannot predict this with absolute certainty. Because the Conservation Strategy and subsequent programmatic biological opinion were designed to contribute to the survival and recovery of the California tiger salamander and listed plants species, we believe that designation of critical habitat is unlikely to result in substantial revision to the current programmatic biological opinion.

Q. Will developers have to provide additional compensation if their property is designated as critical habitat?

A. No. Designation of critical habitat does not entail any requirements for additional compensation.

Q. Will the California tiger salamander conservation banking system remain in place through and after the process of establishing critical habitat? Will the requirements on the bank sites change and will the credits purchased be useable?

A. We do not expect that the existing banking system will change as a result of designating critical habitat. We believe conservation banks contribute to the recovery of the species, and as such will continue to be important elements of the Conservation Strategy. Although we do not anticipate requirements for conservation banks to change, we cannot predict that with certainty at this time. Credits purchased will continue to be usable.

Q. Can properties be developed if critical habitat is designated?

A. Yes. If a federal agency is involved, that agency must consult with the Service to make sure critical habitat is not destroyed or adversely modified. If no federal agency is involved, local agencies will continue applying the mitigation requirements in the Conservation Strategy in the same manner as they have already been doing.

Q. Will designation of critical habitat add costs or time to the process for getting a permit?

A. The Service will work with the Corps to expeditiously revise the current programmatic biological opinion to add critical habitat if designated. Therefore, the programmatic biological opinion will continue to help expedite the process for completing Section 7 consultations with

the Corps. Until the programmatic opinion is revised, we will continue conducting consultations on effects to critical habitat with our programmatic review of projects.

Q. What happens to a project that has purchased credits or mitigated pursuant to the programmatic biological opinion but has not commenced construction at the time final critical habitat goes into effect?

A. At the time the final critical habitat designation goes in to effect, if we have not previously issued a conference opinion for effects to proposed critical habitat, the Corps may need to reconsult on permitted actions over which it has continuing jurisdiction. The extent of the Corps' jurisdiction over specific projects that had already received permits would need to be defined by the Corps on a case by case basis.

Q. Will the designation of critical habitat change the Santa Rosa Plain Conservation Strategy?

A. The designation of critical habitat will not change the Conservation Strategy. The Conservation Strategy document was finalized in December 2005. The Conservation Strategy was developed to contribute to the recovery of the California tiger salamander and listed plant species. The Conservation Strategy was a guiding document in the preparation of the current programmatic biological opinion. Numerous conservation banks and preserves have been established and have credits available to sell; several more are in the review process moving toward approval since the adoption of the Conservation Strategy. The Conservation Strategy provided biological information and guidelines for establishing preserves and minimizing adverse effects of development projects to the California tiger salamander which both the Service and California Department of Fish and Game will continue to use.

Q. Is critical habitat being proposed for the listed plant species?

A. Critical habitat is not being proposed for the listed plant species included in the Santa Rosa Plain Conservation Strategy as part of the proposed designation of critical habitat for the California tiger salamander.